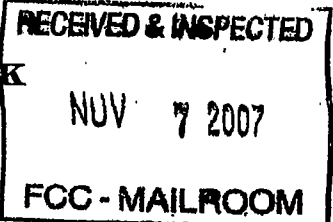


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November 4, 2007

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

ATTN: Hillary DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau;
Richard L. Sippel, Chief Administrative Law Judge

RE: Additional Informal Request under 47 C.F.R. § 1.41, Based on Newly Discovered Fact; EB
Docket No. 07-197; File No. EB-06-IH-5037

Dear Madame Secretary:

Kurtis J. Kintzel, Keanan Kintzel, and all other Entities by which they do business before the Federal Communications Commission ("the Kintzels, et al."), file this additional informal request, under 47 C.F.R. § 1.41, based on the discovery of a fact heretofore unknown to the Kintzels, et al., in reference to NASUCA's Petition to Intervene.

The newly discovered fact is the following: Kathleen F. O'Reilly, counsel to NASUCA, is or was a member of the FCC's Consumer/Disability Telecommunications Advisory Committee.¹

The involvement of a present or former member of an FCC Committee as counsel to NASUCA, which is seeking to become an adverse party against the Kintzels, et al., presents the potential for collusion and improper influence between the Commission's Enforcement Bureau and NASUCA should the Petition to Intervene be granted. The FCC Committee of which NASUCA's legal counsel is or was a member was instrumental in advising the FCC on issues that are central to the hearing. For instance, the FCC Consumer/Disability Committee is or was responsible for advising the FCC on the universal service fund contributions.² Because alleged non-payment of the universal service fund contributions is an issue designated for the hearing, and because the calculation of such contributions—and legal determination as to when liability for such contributions actually accrues—are critical aspects of defense arguments, the participation of NASUCA's legal counsel in assisting in the formulation of FCC policy and process on that issue, and later participation as counsel to a party that seeks to position itself as

¹ Transcript of FCC's Consumer/Disability Advisory Committee meeting, Aug. 6, 2001, at <http://www.fcc.gov/cgb/cdtac/080601transcript.html>.

² *Id.*

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an independent organization, rather than merely an arm of the FCC, creates the appearance of improper collusion.

If NASUCA wishes to participate in the proceedings, it is free to do so by volunteering evidence to the Enforcement Bureau, under 47 C.F.R. § 1.225(b) (“[n]o person shall be precluded from giving any relevant, material, and competent testimony at a hearing because he lacks a sufficient interest to justify his intervention as a party in the matter.”). The Enforcement Bureau may also independently seek to depose NASUCA members as part of the discovery process. 47 C.F.R. § 1.315 (stating that “any person” may be deposed, not just parties). If NASUCA is made a party, the risk of collusion and improper influence between the two organizations (the FCC Enforcement Bureau and NASUCA), would be too great. The presence of a former or current member of an FCC Committee as legal counsel to NASUCA, suggests that NASUCA is not really independent at all, but rather an arm of the FCC.

Therefore, the Kintzels, et al., submit this additional informal request under 47 C.F.R. § 1.41 for permission to file an additional pleading opposing NASUCA’s Petition to Intervene in the above-referenced matter.

Sincerely,

Catherine Park, Esq.

Catherine Park, Esq.

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing Additional Informal Request under 47 C.F.R. § 1.41 was sent for filing on this 4th day of November 2007, by U.S. Mail, Express Mail, to the following:

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

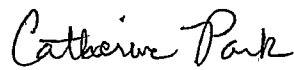
And served by U.S. Mail, First Class, on the following:

Hillary DeNigro, Chief
Michele Levy Berlove, Attorney
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